

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND INDUSTRY**

**Call to Order:** By **CHAIRMAN JOHN HERTEL**, on March 2, 1999 at 9:00 A.M., in Room 410 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John Hertel, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Dale Berry (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Bea McCarthy (D)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 73, 2/27/1999  
HB 150, 2/27/1999  
HB 32, 2/27/1999  
Executive Action: HB 73

***{Tape : 1; Side : A; Approx. Time Counter : 0}***

**HEARING ON HB 73**

**Sponsor:** REP. JOHN "SAM" ROSE, HD 87, CHOTEAU

**Proponents:** Mary Bryson, Director, Department of Revenue  
Mark Simonich, Director, Department of Environmental  
Quality

**Riley Johnson, National Federation of Independent Business**

**Kathleen Martin, Department of Public Health and Human Services**

**Angela Fultz Nordstrom, Chief Deputy, Secretary of State**

**Chris Gallus, MT Chamber of Commerce**

**Opponents: None**

**Opening Statement by Sponsor:**

**REP. JOHN "SAM" ROSE, HD 87, CHOTEAU.** This bill is about one-stop licensing which allows a business to handle the requirements of multiple state licenses and permits through one state agency. A master form is required, which cuts down on the redundancy and paperwork; in other words, it's good for enhancing the business climate in Montana. One-stop licensing began on July 1, 1998, six different state agencies were involved and the number of participating businesses grew from 750 to 2,000, i.e. the pilot project was very successful. However, there have been some problems which included licenses being due at different times. Also, there is interest in expanding the one-stop licensing to include other agencies. One-stop licensing has been very well received nationally; in fact, in December the one-stop licensing initiative was awarded the Division 2000 Award of Excellence by the Small Business Administration in the Regulatory Reform category. It was praised as the initiative that helps small business and one that should be replicated throughout the country; in fact, other states have called to inquire about it.

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**Proponents' Testimony:**

**Mary Bryson, Department of Revenue (DOR).** One-stop licensing is an example of good government because it will decrease the costs associated with licensing activities and provide excellent customer service for Montana businesses. It allows the accumulation of all the licenses into one master license, thereby eliminating the problem of having multiple contacts for government licenses. **House Bill 73 EXHIBIT (bus47a01)** is an improvement upon an existing idea and simplifies the procedures as listed in **EXHIBIT 1**. One-stop licensing accomplishments are also named in **EXHIBIT 1**. We would encourage a DO PASS for **HB 73**.

**Mark Simonich, Department of Environmental Quality (DEQ).** I'm also here to support **HB 73**. The one-stop program has been here

for two years and I have had the opportunity to serve on the Board of Review. Unfortunately, the way the bill was first crafted and although the DEQ director was placed on the Board of Review, it excluded most of the environmental regulatory programs from participating. It was anticipated the underground storage tanks would be part of the program because of the annual fee the tank owners pay. This bill corrects that earlier mistake and allows them to participate in the one-stop licensing for the purposes of the collection of that annual registration fee.

**Riley Johnson, National Federation of Independent Business**

**(NFIB).** We have supported the concept in past sessions and at the time we didn't realize how extensive the concept was, i.e. check-writing and license issuing was cut drastically. One-stop licensing was well-planned, well-conceived and is working. I urge a DO PASS.

**Kathleen Martin, Department of Health and Human Services (DPHHS).**

I'm here to support **HB 73** and one-stop licensing in general. Food purveyor licenses in the amount of 6,000 fall under this one-stop program and about 1,000 of them are in the pilot program. It has been labor-intensive to get it up and running and we have worked very hard with the Department of Revenue to put together a good product which provides good service to our customers.

**Angela Fultz Nordstrom, Secretary of State's Office.** We also stand in support of **HB 73** because we found that one-stop business was another step in making it easier for businesses to do business in Montana. We hope the Committee will pass this bill.

**Chris Gallus, Montana Chamber of Commerce.** We want to be on record as supporting this bill.

**Opponents' Testimony:** None.

***{Tape : 1; Side : A; Approx. Time Counter : 12.4}***

**Questions from Committee Members and Responses:**

**SEN. VICKI COCCHIARELLA** commented she had heard one-stop licensing could be confusing because regulation came from one place and licensing from another. She wondered if that could be a problem in the underground storage tanks. **Mark Simonich** said it wouldn't because steps were taken to correct that. Previously, annual registration fees in the Department were viewed as a compliance mechanism, i.e. if the parties paid their registration fee, that satisfied certain compliance requirements which in turn gave the operators a certain sense of false

security because they thought the rest of their operations were all in compliance. The fact of the matter was the registration fee was simply meant to provide the state with the ability to track the underground storage tanks so the Department could properly regulate them. He said the Department is now trying to separate the two because a certificate will be issued at the time the fee is paid and then annually they will get compliance tags that will be attached to the fill pipe of the facility. That way the distributors will know they can't drop fuel there unless they see the compliance tag.

**SEN. MIKE SPRAGUE** asked if the bill provided for multiple licenses for multiple locations and addressed the issue of revenue enhancement through late fees, i.e. could all be due on the same date. **Mary Bryson** said a single anniversary date for all licenses per location had been put into place.

**SEN. SPRAGUE** wondered what would happen if a person or company opened businesses at different locations and at different times. Could an anniversary date be chosen? **Ms. Bryson** said when applications for renewal licenses were sent, the operator had the opportunity to select the anniversary date.

**SEN. SPRAGUE** asked how one-stop licensing could help expedite the cabaret licenses. **Neil Peterson, Department of Revenue**, said if there was a new location and the owner wanted to move licensing for sale of beer and wine to sell for both off- and on-premise consumption, and a multiple set of licenses was needed, the owner could apply for a anniversary date for all the licenses. Also, bringing the on-premise license renewal into the process should speed things up.

**SEN. SPRAGUE** asked if one-stop shopping could cut off a good block of time in the licensing process. **Mary Bryson** said one-stop licensing didn't specifically address on-premise consumption because the regulatory function was separate from the actual renewal and processing of the fees. In reality, one-stop licensing means once eligibility has been established and the license has been received, the license can be sought on an on-going basis. The renewal of on-premise consumption licenses will be incorporated into the one-stop licensing project; however, as it related to determined eligibility, applicants' location, etc., the regulatory functions were separate and would still have to be maintained by the Department.

**SEN. SPRAGUE** commented if renewal and permits were in the same Department, they could flow together and the Department would still have control. **Mary Bryson** said the Department would be striving to meet that goal; however, certain things in statute

would have to be met before an individual received the license.

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**Closing by Sponsor:**

**REP. ROSE** closed. The licensing process in the state has been unwieldy, unhandy, costly, redundant and time-consuming for about 50 or 60 years now. This bill is definitely a step in the right direction because it's good for both our state and business communities. It's also consumer-friendly; however, since it is a change, it will take some time. I recommend a DO PASS. **SEN. DON HARGROVE** will carry the bill.

**EXECUTIVE ACTION ON HB 73**

**Motion/Vote:** **SEN. MCCARTHY** moved that HB 73 BE CONCURRED IN.  
Motion carried unanimously. 5-0

***{Tape : 1; Side : A; Approx. Time Counter : 24.7}***

**HEARING ON HB 150**

**Sponsor:** **REP. WILLIAM "RED" MENAHAN**, HD 57, ANACONDA

**Proponents:** **Mike Cooney**, Secretary of State  
**Mike Foster**, MT Contractors Assoc.  
**Chris Gallus**, MT Chamber of Commerce

**Opponents:** None

**Informational Testimony:** **Russell Cater**, Department of Public  
Health & Human Services

**Opening Statement by Sponsor:**

**REP. WILLIAM "RED" MENAHAN.** This bill covers a situation when an outside-Montana contractor does work in Montana through a contract with the state, but isn't registered here in Montana.

**Proponents' Testimony:**

**Mike Cooney, Secretary of State.** In many respects, this bill is a housekeeping measure. Montana has entered into major contracts with out-of-state corporations; however, these corporations never

filed to do business in Montana. Our office doesn't have an ability to check on these things. What will happen is the media, general public or legislators will call our office and ask for information on those particular corporations. At that time we will know we have no information on them. It makes sense for Montana to require the out-of-state corporation to file to do business in Montana because then we at least have background information. This process is not burdensome, but is fairly easy; in fact, it can be done within hours. This bill simply says that before entering into a contract with the state of Montana, the corporation must first register with the Secretary of State.

***{Tape : 1; Side : A; Approx. Time Counter : 30}***

**Mike Foster, Montana Contractors' Association.** The issue of foreign companies coming into Montana to do business has become a matter of concern to the Montana Contractors' Association. We believe **HB 150** is an important step toward our goal of having a fair system for competition, i.e. if Montana companies need to go through this process, a foreign company should also. We'd appreciate your support of the bill.

**Chris Gallus, Montana Chamber of Commerce.** We're here to support this bill because we believe people coming into Montana should obey its laws. We support the 30 days concept remaining because it's reasonable and important on a local level because local governments might not be aware of this provision. We also think it's reasonable to expect people who do business in Montana to register and abide by the state laws. We urge DO PASS on **HB 150**.

**Opponents' Testimony:** None.

**Informational Testimony:**

**Russell Cater, Department of Health and Human Services (DPHHS).**

The Department supports the concepts and intent of the bill; however, I would like to propose a few minor amendments

**EXHIBIT (bus47a02).** Page 1, Subsection 2, references exceptions to the general rule of businesses registering with the state, i.e., a business carries on occasional activity here in Montana. Amendments #1,2,4 & 5 clarifies that these exceptions still apply to contracts into which Montana enters. Amendments #3 & 6 indicate this subsection about registration does not apply to goods or services prepared out-of-state for delivery and use in Montana. An example of this would be purchasing a book from a vendor outside Montana, a trainer or consultant coming in, etc. The form takes only a few minutes to complete but it requires an out-of-state business to have a registered agent with the state,

which basically means paying a someone or a company in Montana \$150-\$300.

*{Tape : 1; Side : A; Approx. Time Counter : 41.8}*

Questions from Committee Members and Responses:

**SEN. BEA MCCARTHY** asked for comment on the amendments. **Mike Cooney** said he didn't think there was anything in the amendments which would harm the intent of the bill.

**SEN. MCCARTHY** referred to Page 4, Lines 11-12, and asked if a FAX was sufficient written notice. **Mr. Cooney** said it was as good as an original copy and that language didn't need to be amended into the law. He expressed concern about the Secretary of State's office notifying the contracting parties because sometimes the Secretary's office didn't know the contracting parties were there so it would be difficult to notify them.

**SEN. MCCARTHY** asked when the 30-day count would begin. **Mike Cooney** said it would the date from when they sent the notice.

**SEN. VICKI COCCHIARELLA** asked about the retroactive applicability.

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**Chris Gallus** said he understood there were existing contracts they wanted to address with these notice provisions.

**SEN. COCCHIARELLA** suggested it would be more fair if a bidder had to be registered in order to compete in the bidding process. **Mike Foster** said that was an interesting view; perhaps there could be some statutes that might have a bearing on that. **Bart Campbell** said a certificate was needed to transact business and if a company didn't get the bid, no business would be transacted. He didn't think present laws could require authorization before a more significant contact with the state. **Mike Cooney** said it wasn't uncommon for corporations which wanted to bid and do business with the state to come in and file. He agreed with **Bart Campbell** that was a safe, though unnecessary, approach because conducting business would mean there would be some sort of agreement to exchange goods and services.

**SEN. COCCHIARELLA** asked if a Montana corporation or company would be able to go through the bidding process without being registered. **Mike Cooney** said if the company was establishing itself just to bid on a project, it would not have to be

registered; however, if the bid was accepted, there would be time for them to register. **Mike Foster** said it was important to remember that the companies which entered into large construction contracts with the state (Department of Administration and Department of Transportation) were required to have bonding. If that company isn't registered with the Secretary of State to do business, it would be difficult to get that bond.

**SEN. MIKE SPRAGUE** asked about the necessity of retroactivity. **Mike Cooney** said he guessed there might be some good reason to go back to the beginning of the year because if there was any activity at that point, they could be brought into compliance.

**SEN. SPRAGUE** asked for verification there was no intent to penalize anyone who may not have known and **Mr. Cooney** affirmed.

**SEN. SPRAGUE** asked about contracting agencies picking up suppliers through the Internet and wondered if those Internet providers would have to be registered or licensed. **Mike Cooney** said he thought that would fall under the exception clause because they wouldn't actually be coming into the state to do business.

**SEN. JOHN HERTEL** asked why the amendments weren't done sooner. **Russ Cater** said he didn't pick up on this bill until the day of the hearing so he didn't have time to go through the process of presenting information at the formal hearing.

**Closing by Sponsor:**

**REP. MENAHAN** closed. Perhaps **Bart Campbell** can work this out if the amendments are necessary; perhaps they're not. **SEN. BEA MCCARTHY** will carry the bill.

*{Tape : 1; Side : B; Approx. Time Counter : 9.6}*

**HEARING ON HB 32**

**Sponsor:** **REP. ROYAL JOHNSON, HD 10, BILLINGS**

**Proponents:** **REP. ERNEST BERGSAGEL, HD 95, MALTA**  
**Carroll South, Director, Board of Investments**

**Opponents:** **None**

**Opening Statement by Sponsor:**



**REP. ROYAL JOHNSON, HD 10, BILLINGS.** Over the past few years we've had the Science and Technology Alliance going and now we've asked the Board of Investments to take over a part of that Alliance. This bill allows the Board to change some classifications on some positions. Section 1 says whatever assets are remaining will be under the Board of Investments. Currently, there are 23 classified positions in the Board of Investments and six are exempt positions. This bill allows them two more exempt positions, which would give them eight; however, then there would be 21 classified positions. Page 5, Lines 25-28, is never used by the Board of Investments because they don't take care of that situation. The amendment on Page 5, Lines 29-30, was added in the House and because it wasn't needed and didn't do anything to the bill, it remained.

**Proponents' Testimony:**

**REP. ERNEST BERGSAGEL, HD 95, Malta.** I am in support of the bill and would request the amendment on Page 5, Lines 29-30, and Page 4, Lines 1-2, be removed because I misinterpreted what was needed and added unnecessary language.

**Carroll South, Board of Investments.** The exempt positions are those which the last legislature transferred from Science and Technology to the Board of Investments. The section of law in the bill is the organizational law which organizes the Board of Investments and brings it into conformance with the exempt employee law. At one time the Board had statutory appropriation authority to fix up foreclosed properties; however, the last legislative session removed that authority but not the other language; therefore **HB 32** is an attempt to take it out. In matters of foreclosure, we require the bank that is servicing the mortgage to sign an agreement with us when we buy the mortgage, i.e. if things fall apart, the bank will take care of mowing lawns, paying the heat bills, etc. Also, the bank will sell the property and give the Board an agreeable amount of money for the effort. I would ask you to support the bill and remove the amendments as mentioned by **REP. BERGSAGEL**.

**Opponents' Testimony:** None.

***{Tape : 1; Side : B; Approx. Time Counter : 16.1}***

**Questions from Committee Members and Responses:**

**SEN. VICKI COCCHIARELLA** asked why the six professional staff positions were exempt. **Carroll South** said there were two types of state government employees: (1) Classified, which meant they were regulated by law and rule to set salaries, working conditions, etc.; (2) Exempt, which included department directors appointed by the Governor, Secretary of State's authority for a certain number of exempt positions, the University System in its entirety, although they've chosen to take their lower level employees and tie them into the state classified employees and State Fund employees. We (Board of Investments) currently have six exempt but ultimately will have eight. An exempt employee has his or her salary set by the employing entity, a separate pay plan is established and they're based on how well they perform. The reason exempt positions are extremely important to the Board of Investments is our classified salary structure is about one-fourth of what it is in the investment world.

**SEN. COCCHIARELLA** said under the law, only certain positions could be exempt and she wondered why these people were exempt. **Mr. South** said there was an exempt section of law.

**SEN. COCCHIARELLA** said she didn't think it was legitimate to make people exempt in order to pay them more and asked for justification under the law why the positions needed to be exempt. **Carroll South** said they were already exempt under the law enacted last Session.

**Closing by Sponsor:**

**REP. JOHNSON** closed. Quasi-judicial means certain entities were set up that way; in fact, there almost was immunity. Because they compete in a different sort of world than most parts of state government, they make them so they can compete with private industry. An option would be to privatize this situation and get bids to see what it costs to run the investments. Language on Page 1, Line 22, says a different sort of set-up was made because it was difficult to hire investment people to keep it running. In this reorganization process, it was my understanding they had \$75,000 per year to run this situation; in reality, there's \$90,000 per year, the major share of which I plan to remove when we deal with HB 2. Somebody needs to be in the program who knows technical things but I have another bill coming through which will say in the future, all the money from Science & Technology, etc., plus 7%, will go back to the Coal Tax Trust. As long as we don't write that off, there will be income coming from both research and the University System to pay back their research. One investment Science and Technology made in a company in Butte says they've paid back all the money they loaned and they still owe two-thirds more than they've paid back. If somebody else

wants to start an economic development program, that's wonderful; however, let's not keep picking on this situation. Last year we gave the University System \$2 million for research and \$.5 million to the judges' retirement, which in my mind doesn't make any sense. I hope you can support the bill and remove the two sections referred to.

**ADJOURNMENT**

Adjournment: 10:30 A.M.

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SEN. JOHN HERTEL, Chairman

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MARY GAY WELLS, Secretary

JH/MGW

**EXHIBIT (bus47aad)**